

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TRAVION LINWOOD
WILLIAMS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CRYSTAL SHAUTA HORTON,

Respondent-Appellant.

UNPUBLISHED

July 19, 2007

No. 276283

Wayne Circuit Court

Family Division

LC No. 03-425699-NA

Before: White, P.J., and Zahra and Fort Hood, JJ.

PER CURIAM.

Respondent, Crystal Shauta Horton, appeals as of right from an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(i), (g), and (j). We affirm.

Respondent, born September 22, 1987, was made a temporary ward of the court when it was determined that her mother could not care for her and her siblings due to drug use and dire home conditions. In 1993, at only six years of age, respondent was sent to live with her maternal grandmother, but a petition was never filed. Eventually, respondent returned to live with her mother because she did not like the rules established by her grandmother. On March 19, 2002, respondent gave birth to the minor child at age fourteen and a half years of age. In June 2003, petitioner removed respondent and her child from her mother's care, and respondent was placed with her maternal grandmother. At that time, respondent's father was in jail awaiting trial and was not in a position to plan for respondent.

Respondent and her child were permitted to reside in the grandmother's home, and a petition to take the child was not filed. In November 2003, petitioner became involved when the grandmother contacted the agency to report that respondent left the home, failed to take the minor child, and had not returned for approximately two weeks. Respondent eventually returned home, and petitioner allowed the two to continue to reside with the maternal grandmother with the minor child being made a temporary court ward. At a hearing held on March 19, 2004, respondent admitted that she was the mother of the two-year old minor child, and she was responsible for his care when she left the home for two weeks in October 2003. Respondent further admitted that she did not have her own housing, no job, and was not attending school. A treatment plan was established that required respondent to complete counseling and parenting

classes, accept in-home services, and attend school. The minor child was placed with the grandmother who was granted the discretion to allow unsupervised visits with respondent if she complied with the treatment plan.

In July 2004, respondent and the minor child were removed from the grandmother's home because of the grandmother's health issues, and the two were placed in foster care. However, the foster mother reported concerns about respondent's smoking, attitude, and uninvited guests. Also, while in respondent's care, the minor child suffered a broken leg. However, respondent asserted that the minor child was accidentally injured while playing with respondent's sister. Respondent denied the case worker's allegation that she improperly "yanked" her child off a chair. The court allowed the minor child to remain with respondent and ordered a review in a month. During that time period, respondent was to attend counseling and anger management classes. At the next hearing in August 2004, it was learned that respondent and the minor child were placed in a special school that accepted both mothers and children. This specific program also offered parenting classes, focus groups, and support services. It was learned that respondent's father would be released from incarceration shortly and wished to visit with respondent and his grandson. Although respondent expressed her desire to return to the home of her grandmother, such a placement was unavailable because of the grandmother's deteriorating health. The long term plan was to keep the minor child and respondent together in placement without court intervention.

In May 2005, it was learned that the school for mothers and children released respondent without notice to the agency, and she went to live with her grandmother. The agency was able to place the two with a maternal aunt. However, an incident caused the removal of the mother and the minor child from the home. While the aunt was at work, respondent did not attend school and was found engaging in sexual acts with a peer while the minor child was in the next room watching television. Consequently, the case worker was told to pick up respondent and child from the home of respondent's father. The case worker hoped to place the two in foster care until things cooled down between the aunt and respondent. At this hearing, respondent's father expressed his wish to have respondent and the child reside with him. The court allowed investigation into the propriety of his home as a placement. Despite the fact that respondent's father faced some health issues, respondent and the minor child were placed in his home with in-home services provided to the family. Respondent was instructed that she needed to continue to take parenting classes and needed to take steps to achieve independence as she approached her eighteenth birthday. She was instructed to engage in job training and find a source of income.

Initially, things were proceeding appropriately. It was reported that the family was cooperating with in-home services and that respondent had applied to Job Corps. However, at the next hearing in November 2005, it was learned that respondent and her father did not alert the agency to his recent hospitalization, and respondent was alone with the minor child for several days, despite the fact that the court placement was with respondent's father. Furthermore, in-home services reported that the family was not home on seven occasions when they attempted to visit. Respondent was instructed that if she was not attending school, she had to participate in Job Corps. Despite these deficiencies, the court allowed the placement with respondent's father to continue with respondent residing in the home with the father and minor child. However, the attorney for the minor child objected to the continued placement and sought removal of the minor child from respondent. Counsel noted that the minor child had been in placement for two

years with case workers “bending over backward” for the family while respondent made empty promises that she would work or go to school. It was asserted that the court was “coddling” respondent, and the minor child’s removal might motivate respondent to act in accordance with the treatment plan. Over counsel’s objection, the court allowed the status quo to continue.

At the next hearing in November 2005, respondent had put the child in daycare in order to attend a nursing assistant’s program. In January 2006, at a permanency planning hearing, in-home services reported that the family had made legitimate progress. Respondent was receptive to change and responded to personal contact and motivation. Respondent and her father were communicating well. However, it was noted that in-home services had completed their maximum term of service, and continued therapy was recommended. The court commended respondent for her improvements, but noted that the improvements had to continue after services were finished and respondent needed to find employment.

In April 2006, respondent’s father was ill, and respondent was not achieving the goals established in the treatment plan. Respondent was capable of attending Job Corps in Detroit, but chose not to attend the program. The case worker expressed his concerns that respondent was not utilizing the referrals to try and obtain employment. Rather, she opined that she should not have to work a minimum wage job at a fast food restaurant. The case worker also reported that respondent’s father was required to move to a smaller apartment that was not suitable for the family. The court nonetheless maintained the status quo, but warned respondent that she had to find housing and employment because respondent’s father could not care for the minor child because of his health. At the next hearing, it was learned that respondent’s father had a reaction to medication and was now stable. However, at the May 2006 hearing, the case worker reported that respondent was not truthful about employment. Although she represented that she had obtained work at a fish market, her father reported that she was lying and was watching television while the child was at daycare. The attorney for the minor child objected to the continued placement, noting that the minor child was in care for 1200 days with respondent failing to take measures to provide for the child. Rather, he reported that respondent was taking advantage of the fact that the attorneys hoped for the best despite her actions. At that time, the court gave respondent a referral for housing at the United Community Housing Coalition (UCHC), admonished respondent for failing to make a serious effort, and instructed her to seek a job or continue her education. At this hearing, the court also advised respondent that “no one else in the building” would allow her another chance, and the court was being lenient because it also presided over respondent’s own wardship. Respondent was told that she had until the end of July 2006 to “grow up” and obtain employment and housing or a change of plan would have to occur.

On July 19, 2006, the parties appeared for the permanent planning hearing, but respondent had gone truant with the minor child the day before the hearing. Although respondent had some provisions for the minor child such as clothing, she did not take the child’s asthma medication or breathing machine. Moreover, she had not reported the child’s medical condition when it was discovered in January 2006. It was also learned that respondent continued to have severe anger management issues that she displayed toward the case worker and her father. Respondent’s father reported that he slept with the car keys in his pocket because she had taken the car at night. He further reported that she was threatening to him and disrespectful. Essentially, during the time period in which respondent resided with her father, he was the

caregiver for the minor child. Police were able to recover the minor child, and a supplemental petition was filed seeking to terminate respondent's parental rights.

At the trial, the case worker delineated the lack of progress by respondent. Despite referrals for employment, housing, and psychological counseling, respondent did not complete the terms of the treatment plan. The case worker noted that respondent was terminated from counseling because of noncompliance. Although respondent had completed the nursing assistant program, she did not pass the certification examination on two occasions. Respondent had refused to enroll in the GED program and engage in counseling. Therefore, the case worker recommended termination.

At the hearing, respondent presented proof of employment, asserting that she obtained employment through a temp agency, but recently became a permanent hire. She asserted that she had obtained a one bedroom apartment, but she did not have furniture for the minor child. Respondent contended that she had attended counseling on her own. The hearing was adjourned and when it was resumed it was learned that respondent was still a temporary employee. Although she had started counseling, she was merely through the intake phase and had not yet begun to address "issues." Respondent acknowledged that she had conflicts with her grandmother, her father, her aunt, and her case worker, and she also acknowledged that the case had been pending for three and a half years. Nonetheless, she asserted that she should receive another chance. The case worker testified that her home was suitable, but he did not have the opportunity to have her sign off on the home visit because she became angry with him and told him to leave. The case worker did note that her response was an improvement because normally she would just start to scream and yell at him. The court terminated parental rights, citing the lengthy term of the case, the truancy and amber alert required to recover the minor child, the failure to take the child's medication, and the lack of a response to services.

Respondent alleges that the trial court clearly erred in terminating her parental rights and that termination was not in the best interests of the child. We disagree. There was clear and convincing evidence to support termination of respondent's parental rights. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent was only fourteen and a half years old when she gave birth to the minor child. Consequently, respondent could not provide for the child and relied on relatives, foster care, and programs to assist her in raising her child. However, respondent refused to participate fully in her parental agreement. She did not participate in court ordered counseling and only derived a marginal benefit from the programs that she did complete. Although respondent asserted that she had made progress, she continued to display anger toward her case worker and her father. The trial court noted that it had given respondent more time than warranted to complete the parenting agreement in light of her age. When respondent was warned that she either had to comply or would lose her child, she fled with the child and did not take his asthma medication with her. Only when it was clear that petitioner was seeking to terminate parental rights did petitioner actually obtain employment and find housing and that occurred shortly before trial. Consequently, the trial court questioned whether the changes made by respondent were permanent. In light of the extensive period of time that the child had been in care and the question of the time period before respondent could care for the child, the trial court did not clearly err in terminating parental rights. *Trejo, supra*.

We also cannot conclude that the trial court erred in its best interests determination. *Trejo, supra*. The minor child suffered from asthma and was moved from home to home as a

result of respondent's instability. The minor child was suffering from anxiety and bed wetting as a result of the instability in his home situation.

Affirmed.

/s/ Helene N. White

/s/ Brian K. Zahra

/s/ Karen M. Fort Hood